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ABSTRACT

This paper presents an expanded lesson plan for "The Bloomington-Normal Black History Project." This is a revised and expanded version of one of the six items that constituted the earlier work. The objectives are to analyze a primary source document, recognize the importance of individuals who made a difference in community history, and understand the significance of the past in shaping present attitudes. The paper presents a synopsis of the James A. Chase et al. v. David Stephenson et al. (1874) case addressing desegregation in the schools. Also addressed are community values and social institutions, as well as conflict resolution of human rights issues. Copies of newspaper articles related to the case and documents pertaining to the court ruling are a part of the lesson plan. (EH)

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THE BLOOMINGTON-NORMAL BLACK HISTORY PROJECT: DESEGREGATING THE SCHOOLS EXPANDED LESSON PLAN

BY

LAWRENCE W. MCBRIDE

EDWARD LEWIS

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Desegregating the Schools:
James A. Chase et al.
v.
David Stephenson et al.
(1874)

Themes:

1. Desegregation of public schools
2. Community values and social institutions
3. Conflict resolution of a human rights issue

Objectives:

1. Analyze a primary source document
2. Recognize the importance of individuals who made a difference in community history
3. Understand the significance of the past in shaping present attitudes and events

Focus:

Prior to 1870, there were no black children in the McLean County town of Danvers, which is located about fives miles west of Bloomington-Normal. Late in 1871, an African-American family moved into Danvers; they had two children. Rather than permit the black children to attend the local elementary school in district 6, the school directors proposed building a separate school for them. A majority of the citizens of Danvers supported the school directors.

In January 1872, however, an injunction was filed in the McLean County Circuit Court in Bloomington by the Rev. David Stephenson and several other citizens halting the construction of the new building. They objected to the use of tax dollars for a second school building which was to be used by only two black children. Nevertheless, while the papers were being processed in court the building was hastily constructed. A second injunction was then filed in the Circuit Court prohibiting both the use of the new building and the hiring of a teacher for the children.

The suit was heard by McLean County Circuit Court Judge Tipton in its Chancery Court division. One of the tasks of a chancery court is to decide legal questions when there is no law on the books to settle the matter one way or the other. The judge listened to the arguments and ruled in favor of the taxpayers. Thus, the Danvers school was integrated.

Two years later, in 1874, the Danvers' school directors filed an appeal against Judge Tipton's decision to the Illinois Supreme Court. The Supreme Court upheld Tipton's decision in the case of *Chase v. Stephenson (1874)*. This court decision had far-reaching effects in the county and the entire state. Because the Supreme Court decision would be applied to all of Illinois' schools, the state legislature passed a law prohibiting

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segregated schools everywhere in the state. A few years later, a subsequent school district administrator observed that, "The old prejudices of ante-bellum days soon disappeared and our young friends seemed very happy in their new relations."

This lesson includes several primary source documents to help students explore the tangled process of school desegregation in McLean County and in Illinois. There are three legal documents: two court decisions, and the report entered by the clerk of the court in Chancery Book 26. There are also two reports of the Chancery Court's proceedings which appeared in the *Daily Pantagraph*. Finally, the plan includes a copy of the text, State Bill 560, as it appeared in a newspaper. The subsequent law guaranteed all children in Illinois access to schools, regardless of race. Reproductions of Documents 1, 2, 3, and 6 are included; photocopies of original Documents 4 and 5 are not available.

Procedures:

A. Outline the information in the Focus section on the chalkboard or on an overhead projector.

B. **Identify the Documents**

1. Type of documents
2. Dates
3. Authors
4. Places of Publication

C. **Read the Documents**

1. Read the *Proccedings of McLean County Circuit Court* printed in the *Daily Pantagraph*, January 26, 1872.
2. Read the *Proccedings of McLean County Circuit Court* printed in the *Daily Pantagraph*,January 31, 1872.
3. Read the "Bill for Injunction" printed in the *Chancery Court Book 26*, May 21, 1873.
4. Read the "Bill in Chancery." *James A. Chase, et al v. David Stephenson, et al (1872)*
5. Read the *Decree of the Illinois Supreme Court* (1874)
6. Read the text of Senate Bill 560, printed in the *Daily State Journal*, February 10, 1874.

D. **Analyze the Documents**

1. What are the main ideas presented in Document 1: *Daily Pantagragh* , Jan. 26, 1872?
   a) Who are the principle plaintifs?
   b) Who are the principle defendants?
   c) What was demographic composition of the student population in District 6, Danvers.

2. What are the main ideas presented in Document 2: *Daily Pantagragh* , Feb. 1, 1872? What was:
   a) The response of the School Directors to the first injunction?

b) The nature of the second injunction?
c) The stated reasoning for the school board's desire to have separate facilities for the 'colored children'?

3. What are the main ideas presented in Document 3: *Chancery Court Book 26*?
   a) What was the decision of Judge Tipton?
   b) What was the response of the defendants?
   c) Who would be next to try the case?
   d) What financial costs were involved in these procedures?

4. What are the main ideas presented in Document 4: *The Bill in Chancery. James A. Chase, et al v. David Stephenson, et al*?
   a) What is the nature of public schools?
   b) What are the powers of school directors?
   c) According to the judge, what are the rights of all children when it comes to schooling in the public schools in the district?
   d) What are the rights of the taxpayers when it comes to preventing public officials from misusing public funds for education?

5. What are the main ideas presented in Document 5: The *Decree of the Illinois Supreme Court*?
   a) Recapitulate the evidence. What issues were involved in:
      1) Building and equipping a new school for 'colored' children?
      2) Taxpayers' objections?
      3) Statement on school law?
   b) What was the decision of the Supreme Court?
      1) School directors cannot discriminate against students on grounds of color, race, or social position
      2) Alternatives available to school directors described by judges
      3) Taxpayers' complaint is upheld

6. What are the main ideas presented in Document 6: the text of *Senate Bill 560*, as it appeared in the *Daily State Journal*?
   a) Who is affected?
   b) Age of children affected?
   c) Amount of penalties?
   d) Types of offences covered?
      1) Section 2: Penalties on school officials?
      2) Section 3: Penalties on anyone who prevents 'colored children' from attending school by using threats or intimidation?

E. **Additional Questions to Consider.**

1. Why do *you* think the school directors appealed the Circuit Court's decision to the Illinois Supreme Court?

2. Is the decision of the State Supreme Court in this case a victory for human rights, or for taxpayers, or both? Explain.

3. Why did the Supreme Court decide not to comment on the possibility of "separate but equal" schools in District 6?

4. What conclusions can you draw about the legal status of civil rights of black children in the Bloomington-Normal area in the 1870s?

5. What conclusions can you draw about how individuals viewed their civic responsibilities in advancing human rights in the area in the 1870s?

6. How would you describe relations between ethnic groups and between different economic or social groups in your school today?

F. **Questions Pertaining to History's Habits of Mind and its Vital Themes and Narratives**

1. Did *Chase V. Stephenson* have any impact on the school in which you attend today?

2. The stated reasoning behind the first injunction was to stop the spending of taxpayer's monies for a second school building. What was the unintended outcome of the citizens' actions?

3. What would have been the most probable outcome of this case had it taken place in a Southern state?

4. How does the decision of *Chase V. Stephenson* compare to the decision in *Brown v. the Board of Education of Topeka* (1954)?

G. **Recommended Activity**

Have the students choose a role of one of the particinants in the original case (David Stephenson, James A. Chase, a taxpayer, a student, or Judge Tipton). Have them write a newspaper article stating their reasons for their involvement/decision in this case.

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Extensions:

A. Ask students to read about *Plessy v. Ferguson*, 1898, and *Brown v. the Board of Education of Topeka*, 1954, to learn about segregation and desegregation.

B. Ask students to read about the *Thirteenth* and *Fourteenth Amendment* to the United States Constitution to learn about civil rights.

Bibliography:

A. **Readings for students**

Walter, Mildred Pitts. *The Girl on the Outside*. New York: Lothrop, Lee, and Shepard Books, 1982.
A fictional re-creation of the 1957 integration of Little Rock's Central High School, focusing on the experiences of two girl students, one white, the other black.

Bargar, Gary W. *Life is Not Fair*. New York: Clarion Books, 1984.
Louis and his family are upset when a black family moves next door in 1958, but Louis realizes that his new neighbor is a better friend than the junior high "cools."

B. **Readings for teachers**

Paul, Arnold M. ed. *Black Americans and the Supreme Court Since Emancipation: Betrayal or Protection?* New York: Holt, Rinehart, and Winston, 1972.

Ziegler, Benjamin Munn. ed. *Desegregation and The Supreme Court*. Boston: D. C. Heath and Company, 1958.

Document 1.

DAILY PANTAGRAPH,
Friday, January 26, 1872.

McLean Circuit Court - January Term, 1872
Thursday, January 25

The forenoon was occupied by motions, arguments and trials by court.

A bill was filed by Stevenson, Paul, Shorthose and Gunnell vs. the School Directors of district No. 6, of the town of Danvers, praying for an injunction restraining the said directors from building a school house for two colored children in the district. It appears that some time since a Southern teacher was employed by the directors to teach the district school, who with the consent of the directors excluded the colored children from the school; against which exclusion some of the people of the district protested. When the teacher applied to the County Superintendent for a certificate, he failed to get one on the ground that he did not pass a sufficiently good examination. That of course ended his teaching in this county. The directors next called an election for late Monday, to decide whether a school house should be built for the separate use of the colored children. The election went by default, those in favor of building carrying the day by large majority; and the minority file this bill for injunction. On application of complainants the court granted a temporary injunction, restraining the directors from building until the case is heard and the injunction either dissolved or made perpetual.

Document 2.

DAILY PANTAGRAPH,
Thursday, February 1, 1872

McLean Circuit Court - January Term, 1872
Wednesday, January 31.

Court met at the usual hour. There were no jury trials, the whole of the day being occupied in the hearing of motions, and arguments and trial of cruses by court.

The injunction case of Stevenson, Paul. Shorthose and Gunnell vs. The School Directors, of District No. 6, of Danvers Township, was argued. It appears that during the two or three day's delay in getting out the temporary injunction, the edifice intended for the reception of the colored children of the district was completed, and the defendants the doing of a thing already done; and move to dissolve the injunction. Complainants' counsel opposed that motion, and enter a cross-motion to enjoin the directors from employing a teacher and conducting a separate school for the colored children. They claim that the older building (which is almost new) can comfortably accommodate all the children--white and black; that the causes that led the directors to take steps to build a separate house for the colored children, were partiality and prejudice and that the proceedings were not regular, the call for an election being "to vote a tax to build another school house," the returns of the election, as made by the directors, being that the majority had voted to have a tax levied and build a separate school house for the colored children. Defendant's counsel claimed that, not partiality and prejudice, but the fact that the colored children are filthy and unfit for the other children's society, was the cause of their desire to build a separate house; they claim also that there is not room enough for all the children that attend the school. The case was not decided.

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Document 3.

Chancery Court Book 26
Wednesday, May 21st 1873

David Stephenson Thomas Shorthose
John J. Gunnell and William Paul
vs.
James A. Chase Ward P. Johnson and
Daniel Glaughbough School Directors
of Dis. No. 6. Town 24 N.R.I.W 3d P.M.

Bill for Injunction

And now at this day came the complainants by Rowell & Hamilton their attys. and the defendants by Gapen & Ewing the attys - and submit this cause to the court upon the Bill and answer thereto with the exhibits on file and the supplemental Bill and answer thereto. And the court being fully advised in the premises upon the allegations of the Bill & Supplemental Bill & answers thereto. Doth order adjudge & and decree that the school Directors of District No. 6 Town Twenty four Range 1 West of the 3d P.M. and their successors in office be perpetually enjoined from occupying or using the building described in said bill lately erected upon their school house got for the purpose of carrying on a school for colored children exclusively at the expense of said District ordered further that the Defendants pay the costs of this proceeding within six days from this date.

And now said Defendants by their Solicitors pray an appeal from the Decree of this court to the Supreme court of this State which is allowed on said Defendants giving Bond in the sum of Two Hundred Dollars with security by consent to be approved by the clerk of this court and by consent sixty days are allowed said Defendants to file herein their Bond and Certificate of Evidence.

The Bill in Chancery

JAMES A. CHASE et al
v.
DAVID STEPHENSON et al

1. Public Schools. The free schools of the State are public institutions, and in their management and control the law contemplates that they should be so managed that all children within the district, between the ages of six and twenty-one years, regardless of race or color, shall have equal and the same right to participate in the benefits to be derived therefrom.

2. Same - powers of directors in the management and control. While the directors very properly have large and discretionary powers in regard to the management and control of schools, in order to increase their usefulness, they have no power to make class distinctions, nor can they discriminate between scholars on account of their color, race, or social position.

3. Same - colored children. The directors have no power to keep and maintain a separate school solely to instruct three or four colored children of the district, when they can be accommodated at the school house with the other scholars of the district.

4. And if the directors attempt to do so, any tax-payer of the district has a right to interfere to prevent the public funds from being used in such unauthorized manner.

APPEAL from the Circuit Court of McLean county; the Hon. THOMAS F. TIPTON, Judge, presiding.

Messrs. GAPEN & EWING, for the appellants.

Messrs. ROWELL & HAMILTON, for the appellees.

Mr. JUSTICE CRAIG delivered the opinion of the Court:

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Document 5.

The Decree of the Illinois Supreme Court
(1874)

The cause was heard upon bill, answer and exhibits, and a decree rendered that appellants, directors of a certain school district, be perpetually enjoined from occupying or using the building named in the bill for the purpose of carrying on a school for colored children, exclusively, at the expense of the district.

The bill was originally filed for the purpose of restraining appellants from erecting a school house, twelve feet wide and fourteen feet long, for the exclusive purpose of educating four colored children in the district. Before the injunction was served, the building was completed. Appellees then filed a supplemental bill, in which they charged, that, after the completion of the building, appellants employed a teacher, and have kept a school in the building for no other purpose than to teach two colored children in the district; that appellants have given the teacher a warrant on the township treasurer, to pay for her services out of the school funds.

It is further alleged, that appellants will, unless enjoined, continue to occupy the building erected as a school house at the public expense, for no other purpose than to educate two colored children separate from the other children in the district.

It is further alleged, that there is ample room in the school house which was erected three years before, on the same lot, to accommodate all the children in the district.

Several questions of minor importance have been raised by appellants, which it is unnecessary to consider.

The point in the bill in this case is, that appellants, in order to keep some four colored children from attending the same school in the district that is provided for others, erected a small house on the same lot where the other school house stands, and, at the expense of the tax-payers, propose to employ an additional teacher to instruct the colored children, in this small building, separate and apart from the other-children in the district; and these facts are substantially admitted by the answer.

The bill is filed by four tax-payers of the district, to prevent the directors from a misappropriation of the public funds, in which, in common with the public, they have a direct interest.

It is insisted by appellants, that the provision of the statute that declares that the directors shall establish and keep in operation for at least six months in each year, and longer, if practicable, a sufficient number of schools for the proper accommodation of all the children in the district over the age of six and under twenty-one years, and that they may adopt and enforce all necessary rules and regulations for the management and government of the schools, gives them the power and fully sustains their action in this case.

The free schools of the State are public institutions, and in their management and control the law contemplates that they should be so managed that all children within the district, between the ages of six and twenty-one years, regardless of race or color, shall have equal and the same right to participate in the benefits to be derived therefrom.

While the directors, very properly, have large and discretionary powers in regard to the management and control of schools, in order to increase their usefulness, they have no power to make class distinctions, neither can they discriminate between scholars on account of their color, race or social position.

If the school house was too small to accommodate all the scholars in the district, it would have been eminently proper for the directors to have enlarged the building. But this they did not see proper to do; and it is apparent, from the record, that the erection of the small house on the same lot where the school house stood was not on account of the incapacity of the school house to accommodate all the scholars in the district, but the sole and only object seems to have been to exclude the colored children in the district from participating in the benefits the other children received from the free schools.

Had the district contained colored children sufficient for one school, and white children for another, and had the directors, in good faith, provided a separate room for each, where the facilities for instruction were entirely equal, that would have presented a question not raised by this record, and upon which we express no opinion.

But the conduct of the directors in this case, in the attempt to keep and maintain a school solely to instruct three or four colored children of the district, when they can be accommodated at the school house with the other scholars of the district, can only be regarded as a fraud upon the tax-payers of the district, any one of whom has a right to interfere to prevent the public funds from being squandered in such a reckless, unauthorized manner.

As we view the case, we perceive no error in the decree of the circuit court. It will therefore be affirmed.

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Document 6.

DAILY STATE JOURNAL.
Springfield, Illinois
Tuesday Morning, Feb. 10, 1874
THE CITY

Colored Children in the Public Schools.

The following is the text of the bill introduced in the Senate by dir. Henry, to secure to colored children the benefits of the colored schools:

Section 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly, That all directors of schools, boards of education, or other school officers, whose duty it is or may hereafter be to provide in their respective jurisdictions schools for the education of all children between the ages of six and twenty-one years, are prohibited from excluding, directly or indirectly, any such child from such school on account of the color of said child.

Section 2. Any such school officer or offices as are mentioned in the foregoing section, or any person who shall exclude or aid in the exclusion from the public schools of any child who is entitled to the benefits of such school, on account of such child's color, shall be fined, upon conviction in any sum not less than $3 nor more than $100 each for every such offense.

Section 3. Any person who shall by threats menace, or intimidation prevent any colored child entitled to attend a public school in this State from attending the same, shall, upon conviction, be fined in any sum not exceeding $25.

Document 1.
DAILY PANTAGRAPH,
Friday, January 26, 1872.

DAILY PANTAGRAPH.

FRIDAY, - - - JANUARY 26, 1872.

McLEAN CIRCUIT COURT—JANUARY TERM, 1872.

THURSDAY, January 25.

The forenoon was occupied by motions, arguments and trials by court.

A bill was filed by Stevenson, Paul, Shorthose and Gunnell vs the School Directors of district No. 6, of the town of Danvers, praying for an injunction restraining the said directors from building a school house for two colored children in the district. It appears that some time since a Southern teacher was employed by the directors to teach the district school, who with the consent of the directors excluded the colored children from the school; against which exclusion some of the people of the district protested. When the teacher applied to the County Superintendent for a certificate, he failed to get one on the ground that he did not pass a sufficiently good examination. That of course ended his teaching in this county. The directors next called an election for last Monday, to decide whether a school house should be built for the separate use of the colored children. The election went by default, those in favor of building carrying the day by large majority; and the minority file this bill for injunction. On application of complainants the court granted a temporary injunction, restraining the directors from building until the case is heard and the injunction either dissolved or made perpetual.

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Document 2.
DAILY PANTAGRAPH,
Thursday, February 1, 1872.

DAILY PANTAGRAPH.

THURSDAY, - - - FEBRUARY 1, 1872.

McLEAN CIRCUIT COURT—JANUARY TERM, 1872.

WEDNESDAY, January 31.

Court met at the usual hour. There were no jury trials, the whole of the day being occupied in the hearing of motions, and arguments and trial of causes by court.

The injunction case of Stevenson, Paul, Shorthose and Gunnell vs. The School Directors, of District No. 6, of Danvers Township, was argued. It appears that during the two or three days, delay in getting out the temporary injunction, the edifice intended for the reception of the colored children of the district was completed, and the defendants [illegible] the doing of a thing already done; and move to dissolve the injunction. Complainants' counsel opposed that motion, and enter a cross-motion to enjoin the directors from employing a teacher and conducting a separate school for the colored children. They claim that the older building (which is almost new) can comfortably accomodate all the children—white and black; that the cause that led the directors to take steps to build a separate house for the colored children, were partiality and prejudice and that the proceedings were not regular, the call for an election being "to vote a tax to build another school house," the returns of the election, as made by the directors, being that the majority had voted to have a tax levied and build a separate school house for the colored children. Defendant's counsel claimed that, not partiality and prejudice, but the fact that the colored children are filthy and unfit for the other children's society, was the cause of their desire to build a separate house; they claim also that there is not room enough for all the children that attend the school. The case was not decided.

The evidence in the mechanic's lien case of Whitmer & Mitchell and others vs Price Keith was heard by court, but not decided.

A decree of divorce was granted in the case of Susan Saltzman vs. Nicholas Saltzman, complainant to resume her maiden name and pay costs.

Document 3.
Chancery Court Book 26
Wednesday, May 21st 1873.

Wednesday May 21st 1873

David Stephenson. Thomas Shorthose
John J Bunnell and William Paul
2506 vs Bill for Injunction
James A Chase. Ward P Johnson and
Daniel Slaughbough. School Directors
of Dis. No 6. Town 24 N.R.1.W. 3d P. M.

And now at this day came the complainants by Rowe Hamilton their Atty. and the Defendants by Draper & Ewing Attys - and submit this cause to the Court upon the Bill an answer thereto with the exhibits on file. and the Supplement Bill and answer thereto. And the Court being fully adv in the premises - upon the allegations of the Bill & Supplem tal Bill & answers thereto. Doth order. adjudge & and decre that the School Directors of District No 6 Town Twenty four. Range 1 West of the 3d P.M. and their successors in office b perpetually enjoined from occupying or using the building described in said bill lately erected upon their school ho Lot for the purpose of carrying on a school for colored chil exclusively at the expense of said District. Ordered furth that the Defendants pay the costs of this proceeding within 5 days from this date

And now said Defendants by their Solicitors pray an Appea [redacted] of this Court to the Supreme Court of this State [redacted] thereon said Defendants giving Bond in the sum [redacted] Hundred Dollars with security by consent to be approve [redacted] of this Court. and by consent sixty days are allow [redacted] dants to file herein their Bond and Certificate of

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Document 6.
DAILY STATE JOURNAL.
Tuesday Morning, Feb. 10, 1874.

Daily State Journal.

SPRINGFIELD, ILLINOIS

TUESDAY MORNING, FEB. 10, 1874

THE CITY.

Colored Children in the Public Schools.

The following is the text of the bill introduced in the Senate by Mr. Henry, to secure to colored children the benefits of the colored schools:

SECTION 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly, That all directors of schools, boards of education, or other school officers, whose duty it is or may hereafter be to provide in their respective jurisdictions schools for the education of all children between the ages of six and twenty one years, are prohibited from excluding, directly or indirectly, any such child from such school on account of the color of said child.

SEC. 2. Any such school officer or officers as are mentioned in the foregoing section, or any person who shall exclude or aid in the exclusion from the public schools of any child who is entitled to the benefits of such school, on account of such child's color, shall be fined, upon conviction, in any sum not less than $5 nor more than $50 each for every such offense.

SEC. 3. Any person who shall by threats, menace, or intimidation prevent any colored child entitled to attend a public school in this State from attending the same, shall, upon conviction, be fined in any sum not exceeding $25.

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